

# TIPPING the BALANCE

Why Legal Services are  
Essential to Health Care for  
Drug Users in Ukraine



Extortion  
Police abuse  
Discrimination  
Apartment seizure  
Drug user registration

Legal aid  
Human rights  
HIV prevention  
Drug treatment  
Harm reduction



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**Why Legal Services are  
Essential to Health Care for  
Drug Users in Ukraine**

“I could not have dealt with my HIV  
without help with my legal problems.”

—client of Time of Life, Poltava



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Public Health Program

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For more information, contact:

Open Society Institute

Public Health Program

400 West 59th Street

New York, New York 10019 USA

[www.soros.org/health](http://www.soros.org/health)

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# Preface

The International Harm Reduction Development Program (IHRD) and the Law and Health Initiative (LAHI) of the Open Society Institute (OSI) Public Health Program support the work of public health advocates and service providers in delivering legal services to people who use drugs. In Ukraine, LAHI and IHRD work with the Public Health and Rule of Law programs of the International Renaissance Foundation (IRF) to build stronger connections between harm reduction organizations and legal services. This unique intervention is based on the philosophy that people who use drugs cannot gain maximum benefit from harm reduction services unless these services are coupled with legal support to address discrimination, police violence, and other human rights violations.

In September 2007, LAHI and IHRD commissioned an assessment of five projects funded through this initiative. *Tipping the Balance: Why Legal Services are Essential to Health Care for Drug Users in Ukraine* is the result of the documentary research and interviews conducted for this assessment.

The organizations reviewed in this report, funded by OSI with small grants ranging from US\$5,000 to US\$10,000, have all succeeded in integrating some form of legal support into harm reduction programs. Beneficiaries of these programs report that legal services have helped them defend themselves against human rights abuses, better protect their health, and improve their overall quality of life.

OSI and IRF's experience in Ukraine has shown that access to legal services and legal advocacy are critical for advancing public health and protecting human rights. The link between human rights abuses, social marginalization, and poor health outcomes underscores the need to protect a full range of human rights in order to ensure that all persons can fully benefit from health and legal services. This is especially true for stigmatized communities impacted by the HIV epidemic, such as drug users and sex workers who suffer persecution at the hands of law enforcement.

We gratefully acknowledge the contributions and personal commitments of the many professionals and clients interviewed for this report. We would also like to thank our colleague Roman Romanov, director of the Rule of Law program at the International Renaissance Foundation, who provided peer review.

We hope the information in this report will help legal services and harm reduction programs better protect drug users from pervasive human rights abuses and negative health risks. We also hope this report will encourage the government of Ukraine to scale up and strengthen the harm reduction and legal services components of the country's HIV prevention and treatment strategies.

Corinne Carey

Andrey Tolopilo

Jonathan Cohen

Daniel Wolfe

*Corinne Carey and Andrey Tolopilo are consultants to both LAHI and IHRD. Jonathan Cohen is director of the Law and Health Initiative. Daniel Wolfe is director of the International Harm Reduction Development Program.*



# List of Key Respondents

Lena Botvin, Public Health Program Assistant, International Renaissance Foundation, Kyiv  
Dmitry Chikurov, Poltava Regional Officer, All Ukrainian Network of People Living With HIV/AIDS, Poltava  
Yuriy Dekh, Legal Department Manager, All Ukrainian Network of People Living With HIV/AIDS, Kyiv  
Maxim Demchenko, Executive Director, Light of Hope, Poltava  
Julia Dorokhova, lawyer, Club Eney, Kyiv  
Marina Ermolchenko, lawyer, Club Eney, Kyiv  
Elena Goriacheva, Director, Exit, Nikolaev  
Galina Kaminska, Director, All Together, Lviv  
Mariya Kaminska, Protect Yourself project lawyer, All Together, Lviv  
Andrey Kholodov, Head of Legal Protection of Vulnerable Groups, Time of Life, Nikolaev  
Ihor Konovalov, Director, Nikolaev Network, Nikolaev  
Nadegda Kravchenko, Director, Mangust, Kherson  
Olena Kucheruk, Harm Reduction Project Coordinator, International Renaissance Foundation, Kyiv  
Zhenia Lukovenko, President of the Board, Time of Life, Nikolaev  
Vera Mostovaya, Children's Program, Light of Hope, Poltava  
Andrey Naumenko, volunteer attorney, Exit, Nikolaev  
Sergey Pavlov, legal education consultant, Exit, Nikolaev  
Anton Petko, attorney, Poltava  
Irina Porokhonko, President, Time of Life, Nikolaev  
Aleksandr Revda, attorney, Poltava  
Maria Savchuk, Public Health Program Director, International Renaissance Foundation, Kyiv  
Irina Shulgina, contract attorney, Mangust, Kherson  
Pavel Skala, HIV/AIDS Alliance, Kyiv  
Zoryana Skaletska, PhD, Assistant Professor, University of Kyiv-Mohyla Academy, Kyiv  
Ihor Skalko, lawyer, Nikolaev  
Tatyana Zaprudskih, Social Worker Manager, Exit, Nikolaev  
Sergey Zhuk, Advocacy Project Director, Light of Hope, Poltava

In addition to the organizational respondents, the authors interviewed 30 clients of the five programs reviewed in this report. The names of clients have not been identified in order to protect their privacy.



# I. Summary and Recommendations

Ukraine has a well-developed and growing network of agencies designed to help people reduce drug-related harm by ensuring access to sterile syringes, assistance with social services, and linkages to substance abuse treatment programs, including buprenorphine treatment. While these are important steps forward in a country where the rate of HIV has been on a steady incline, particularly among those who inject drugs,<sup>1</sup> no such programs can be effective if fear of arrest or police harassment makes people afraid to use them.<sup>2</sup> Nor is it possible for people who experience a continuous and wide range of legal problems to fully utilize the HIV prevention tools made available to them.

Dealing with complex personal legal problems is both all-consuming and dispiriting.<sup>3</sup> Many drug users feel demoralized and simply give up on what may seem like endless legal battles. Despair over legal situations may make people pessimistic about reducing the health risks associated with drug use or ending drug use altogether.

While Ukraine has made significant progress in HIV prevention and treatment among those who inject drugs, greater funding and political commitment for legal services is needed to stem the spread of HIV.

## **Pervasive Human Rights Abuses**

In Ukraine, severe human rights abuses have long been reported by people who use drugs and other vulnerable groups such as sex workers and people living with HIV/AIDS. In 2003, a group of Ukrainian harm reduction advocates conducted research to determine the major human rights abuses facing these populations and how these abuses interfered with their ability to gain access to harm reduction services.<sup>4</sup> The research documented widespread discrimination against these groups and found frequent rights violations. Many of the responses described abuses committed by law enforcement officers, who not only routinely violated the due process rights of these groups, but also used torture to extract confessions (e.g., using a device known as a “ball presser” to put pressure on a man’s genitalia until he confesses, or the “elephant,” which prevents the person from breathing). The research also showed that due to their vulnerable position in society, injecting drug users (IDUs), people living with HIV/AIDS (PLHA), and sex workers were effectively deprived of opportunities to vindicate their rights and hold public officials accountable.

These problems have been substantiated by numerous reports documenting human rights abuses against Ukrainian drug users.<sup>5</sup> Many of these same problems persist today, according to interviews conducted for this report.

## Scarce Legal Services

For the most part, drug users are unable to seek redress for human rights abuses due to a lack of affordable legal services. Indeed, access to affordable legal services is limited for all Ukrainians without the means to pay for the services of a private lawyer or attorney,<sup>6</sup> not just people who use drugs.

Yet people who use drugs face unique barriers to accessing legal services. Even in countries where free legal services are readily available, drug users are often reluctant to seek out legal assistance because of the tremendous stigma that they face from professional service providers; the lack of trust they have in general for authority figures; and not least because they see the state and law enforcement as so powerful, they cannot envision that legal services can help them. Cultivating trust among communities of drug users and demonstrating models of success will help lead drug users to access these services. Programs in Ukraine have begun to do this, and in some cities, legal professionals who work with harm reduction programs have gained the trust and respect of the drug users they serve; in others, there is still work to be done.

## A Unique Civil Society Intervention

With the assistance of international donors, a handful of harm reduction programs and traditional HIV/AIDS service organizations in Ukraine have established legal components to their existing programs. They have engaged a number of different approaches to doing so, from employing a full-time legal professional to contracting with private firms that provide services on an as-needed basis. These programs have increased access to legal services by placing lawyers at sites where drug users access harm reduction services including needle exchange, counseling, and referrals to substance abuse treatment. Likewise, the programs have increased access to harm reduction by drawing in new users who come for the legal services and stay for the HIV prevention services.

Legal professionals working on behalf of drug users must work under tremendous pressure and with limited resources. Often they double as social workers or case managers, providing clients with moral support even if they can't succeed in winning a case or dropping a criminal charge. In some cases they take on the role of private investigator, collecting evidence of illegal conduct by police in order to persuade a judge to reduce a sentence. Their work is improvisational and untraditional, often not perfectly captured by the term "legal services." These legal professionals desperately need resources and technical assistance to meet the overwhelming demand for legal services, and to provide their drug-using clients with the level of professionalism they deserve.

Criminal defense is a critical component provided by harm reduction legal programs. Some programs supplement direct legal services with training for judges and prosecutors about the effect of incarceration on drug users who are sick—either as a result of withdrawal, or from symptoms stemming from HIV or Hepatitis C—and will become sicker while they are incarcerated, creating a bigger burden on society. These trainings are also designed to inform judges and prosecutors about the services that exist in the community to help drug users.

## The Need for Evaluation

The integration of civil and criminal legal services into harm reduction programs is relatively new, and there has been no systematic attempt to document the impact of such services on the health and well-being of people who use drugs. There is, however, extensive anecdotal evidence from drug users attesting to the benefits of legal services. Harm reduction clients interviewed for this report said that meeting with legal professionals who believe that drug users have rights worthy of defending improved their feelings of self-worth and empowered them to begin taking their own health care seriously. One client of the Time of Life organization in Poltava said that when he found out he was HIV-positive, he didn't understand HIV or AIDS and believed that he only had a few years to live. He decided to “burn” his life away by continuing to use drugs and committing crime. After his arrest, he could not afford the services of a lawyer but learned about the legal services available at Time of Life. He consulted with the program's attorney who advised him on how to defend himself in court, and a representative from the organization accompanied him each time he appeared before the judge. He was ultimately able to avoid a jail sentence. The client said:

Everything has changed since then. I stopped [using drugs] when I came to this organization. Now I'm preparing to marry and move to another city. I could not have dealt with my HIV without help with my legal problems.

## Recommendations for Strengthening Harm Reduction Legal Services

In order to protect drug users from pervasive human rights abuses, and to more effectively treat and prevent HIV, Ukraine health agencies must strengthen the legal services components of their harm reduction efforts.

Strengthening access to legal services requires several steps, including educating people about their legal rights, building the capacity of harm reduction organizations to meet the complex and diverse legal needs of their clients, linking legal services to advocacy efforts already underway, and designing new advocacy plans that arise from the legal issues faced by clients. Based on the assessment carried out for this report, OSI recommends that the government of Ukraine and bilateral and multilateral donors take the following steps to improve access to legal services for people struggling with illegal drug use:

- ***Increase funding for legal services within a harm reduction context.*** The government of Ukraine should support legal services targeted at drug users as part of its HIV/AIDS health strategies and legal aid/access to justice strategies. Support should also include general operating funds to existing harm reduction organizations, which will enable the organizations to build a solid base and more effectively integrate legal services. Funding should be multiyear so that organizations can take on cases that last more than one year and engage in long-term planning.
- ***Build the capacity of existing legal service providers by investing in professional development for individual lawyers.*** Many legal professionals who provide services to drug users lack the qualifications needed to take on complex cases or appear in court. The most effective way to fill this capacity gap is to support lawyers in gaining the necessary skills and certifications they need to provide services to their clients.
- ***Use legal services as the basis for participatory policy advocacy.*** Providers of legal services are in a position to document and analyze the most common forms of human rights abuses against drug-using clients. The experiences of clients can help inform legal and policy reform at the regional, national, and international levels. Support for a national network or clearinghouse to document cases of police abuse is critical in Ukraine, and would provide the evidence and motivation for advocacy campaigns. Donors should support efforts to train legal staff to identify opportunities for systemic advocacy, potential targets, techniques, and support for advocacy plans.
- ***Foster communications and working relationships among professionals.*** Donors should support sharing of expertise among legal professionals through multiregion training and skills-building workshops for legal professionals. They should also encourage NGOs that have expertise in one area of the law (such as HIV law) to exchange information with NGOs that have expertise in other areas of the law (such as criminal defense), and to develop cooperative agreements for a mutual referral system. Donors should also support regular meetings between legal staff from harm reduc-

tion programs and staff from NGOs engaged in related legal work, such as the All Ukrainian Network of People Living with HIV/AIDS.

- ***Support publications and the strategic use of the media.*** Donors should allocate funding specifically for the dissemination of legal information for drug users, such as laws affecting drug users, how drug users can advocate for themselves, and where to go for help. For example, donors might allocate funding for a lawyer to write a monthly “legal advice” column that would appear in periodicals or websites read by the target population. Donors should also support media outreach efforts, including educating the media about issues facing drug users, reducing stigma and sensationalism around drug issues, increasing journalists’ understanding of the facts and science of addiction and treatment, and reinforcing their professional responsibilities and obligations. This outreach could be conducted through direct training, developing resource materials (e.g., a pamphlet on liability for privacy violations), or building the capacity of harm reduction providers to work effectively with the media.
- ***Invest in qualitative and quantitative evaluation and strategic planning.*** Donors should initiate and support an effort to evaluate the health impact that providing legal services has on vulnerable populations. Research should examine, among other things, how legal assistance helps HIV prevention and treatment efforts. Such evidence can be used to improve program quality, educate the government and donors about harm reduction-based legal services, and enhance society’s understanding about the underpinnings of HIV vulnerability.

## Recommendations for NGOs

In addition to the above, OSI recommends based on this assessment that legal professionals and NGOs involved in harm reduction take the following actions to maximize the scope and impact of the services they currently provide:

- ***Establish formal and informal networks between legal service providers.*** Legal professionals working with harm reduction organizations should share best practices and materials. They should also jointly identify opportunities for changing national policies that affect users in different parts of the country. Legal professionals in harm reduction settings should strengthen the connections they have with other NGOs that have experience in advocacy and in providing legal services to similar populations.

- ***Work toward empowering clients.*** Legal service programs should not only provide direct services, but also train clients to advocate for their rights (e.g., training clients to represent themselves in minor court proceedings, or before administrative authorities). Legal professionals should also work with social workers or psychologists who are part of harm reduction programs so that these practitioners may encourage clients to seek legal action when necessary; monitor legal cases; foster trust in the legal system; warn clients of consequences; and take action and help solve potential legal problems. Drug users and sex workers should also be involved in designing models for how programs provide legal services.
- ***Engage in evaluation efforts.*** Programs should maintain annual statistics including: number of clients served; breakdown by gender; kinds of assistance provided (e.g., consultation, drafting documents, and meetings or phone calls with medical staff, law enforcement, internal affairs, and others); court representation; type of legal problem; and outcome of case. Program coordinators should also administer client satisfaction surveys, regularly identify and examine trends and common problems, and identify advocacy strategies that arise from these common problems. Legal professionals, support staff, and administrators should also set aside time for strategic planning to review the work done by the project during the year and set targets for how to maximize resources in the future.



## II. Methods

Corinne Carey and Andrey Tolopilo, consultants to the Open Society Institute's Law and Health Initiative and International Harm Reduction Development Program, visited legal service projects in five cities in Ukraine between September 19, and September 29, 2007. The programs have provided legal services with OSI support since 2004. Carey and Tolopilo interviewed legal professionals, clients, service providers, and advocates in Kyiv, Lviv, Nikolaev, Kherson, and Poltava. The aim of the assessment was to discover the various models that these NGOs had put into place with the limited resources that they had, identify opportunities for strategic litigation and other systemic advocacy, and draw lessons for future funding and replication of the programs in other cities and countries.

The consultants used a series of standard questions, and also engaged in open-ended dialogue with interviewees. The following questions were posed to each of the programs:

- **Demographics.** How many clients are identified through outreach? How many clients receive consultation services? How many clients receive representation services? How many clients are women/men? How many clients identify as gay, lesbian, or transgender? How many clients identify as drug users, family members of drug users, or falsely accused of being drug users?
- **Client contacts.** How are services advertised? Do you engage in outreach to identify potential clients? How do potential clients apply for services? What criteria are used in selecting clients? How long do clients have to wait for legal services?
- **Staffing.** How many lawyers, paralegals, law students, volunteers, and support staff does the program have? Which of these are full time, part time, or employed on a contract basis?
- **Substance of work.** What kinds of cases and how many of each does the program deal with?
- **Evaluation methods.** Are clients involved in evaluating the program? How often is the work evaluated? Are other service organizations involved in evaluating the program's work?
- **Media relations.** Does the program have a media strategy? When and how is it employed?
- **Advocacy campaigns.** How does the program define advocacy? Is it undertaken, and if so, how? Do program staff work with government officials and policymakers?

Respondents were also interviewed about the extent to which they had integrated a rights-based approach into their programming. As summarized in *Health and Human Rights: A Resource Guide for the Open Society Institute and Soros Foundation Networks*,<sup>7</sup> the five elements of rights-based programming are commonly identified as:

- **Participation.** Does the activity include participation by affected communities, civil society, marginalized groups, and others? Is it situated in close proximity to its intended beneficiaries?
- **Accountability.** Does the activity identify both the entitlements of claim-holders (i.e., disadvantaged communities) and the obligations of duty-holders (i.e., government authorities)? Does it create mechanisms of accountability for violations of rights?
- **Non-discrimination.** Does the activity identify who is most vulnerable, and how? Does it pay particular attention to the needs of vulnerable groups such as women, minorities, indigenous peoples, and prisoners?
- **Empowerment.** Does the activity give its beneficiaries the power, capability, capacity, and access to bring about a change in their own lives? Does it place them at the center of the process rather than treating them as objects of charity?
- **Linkage to rights.** Does the activity define its objectives in terms of legally enforceable rights, with links to international, regional, and national laws? Does it address the full range of civil, political, economic, social, and cultural rights?

# III. Background:

## Why Integrate Legal Services into Harm Reduction Programs?

In 2003, harm reduction advocates in Ukraine conducted a study of access to services for vulnerable communities across the country.<sup>8</sup> The study identified the following common obstacles that prevent or inhibit drug users from accessing harm reduction services:

- Abuses by police, including physical abuse, fabrication of evidence, and procuring confessions from suspects under duress;
- Forfeiture of apartments following convictions of selling or producing illegal drugs on the premises, and unlawful seizure of apartments from drug users who are intoxicated or held in prison or a hospital, such that their signatures are easily fraudulently obtained;
- Problems regaining custody of children following a period in a drug treatment program or prison;
- The requirement that people seeking drug treatment register with the state;
- Lack of methadone or buprenorphine treatment;
- Inability to regain identification documents confiscated by the police;
- Problems re-establishing housing, employment, and other social services after a period of incarceration or institutionalization for substance abuse treatment;
- Discrimination on the basis of HIV status, drug use, or criminal history.

This report does not aim to document these abuses again, but to describe a solution: the provision of timely and affordable legal services for drug users and others who are socially vulnerable in the context of Ukraine's accelerating HIV epidemic.

Despite a large number of state and private firms that provide legal advice, legal services are difficult to come by in Ukraine. The key barrier is money; the services of a legal professional are costly in a country where the average monthly wage in 2007 was 831 hryvnia (UAH), or US\$166.<sup>9</sup> Even for simple cases where clients are charged with possession of an illegal drug for personal use, securing representation could cost between 500 and 1,500 UAH (US\$100–300) or more, even for a mere consultation. In cases where

someone is charged with something more serious, such as possession of illegal drugs with the intent to sell, the services of a private attorney can cost between 2,500 and 5,000 UAH (US\$500–1,000). If the potential sentence is 15 years to life, it is impossible to secure the services of an attorney for less than 5,000 UAH. In fact, in felony cases involving sentences of more than 10 years, the attorney’s fees might amount to over a year’s salary for the average worker. Such costs are prohibitive for most drug users, and their inability to pay is all the more unjust given the pervasiveness of human rights violations against them.

The high cost of legal services in Ukraine is compounded by widespread judicial corruption. Several legal professionals interviewed for this report said that some attorneys factor into their fees a bribe to a judge because in many cases the decisions of judges depend on a system of bribes. According to one lawyer interviewed for this report, on average, when considering a bribe to a judge, one year of sentence is set equal to 5,000 UAH (US\$1,000).<sup>10</sup>

Unable to afford these fees, most drug users choose to do what law enforcement requests rather than seek legal assistance. An attorney in Poltava said that when clients are arrested for minor violations that commonly carry a 3–15 day jail sentence, police may offer the arrestee drugs or an early release in order to get him to plead guilty. The arrestee is likely to plead guilty because he is in withdrawal.<sup>11</sup> Drug users may also offer bribes to law enforcement in return for their release, and even bargain with officers about how much they are willing to pay. These tactics may be effective in avoiding imprisonment in the short term, but they do nothing to deter law enforcement from perpetrating abuses against other drug users in the future, or to protect human rights and the rule of law.

The pervasiveness of human rights abuses against drug users, combined with the high cost and inaccessibility of legal services, has compelled many harm reduction providers to seek private funds to offer free legal services to their clients. For some programs, the need became apparent because their own social workers—many of whom are former drug users—faced legal problems and had no access to legal assistance. When asked why they started providing legal services, one provider said:

It’s very simple: at the NEP [needle exchange program] where the social workers give out syringes, they were having significant problems with police. In the criminal code, nothing criminalizes drug use, but everything surrounding drug use is criminalized—possession, transportation, storage, etc. Many of the social workers that work at the needle exchange are former or current drug users. For that reason, the police are suspicious of the social workers, even if they have all of their documents [the order allowing them to distribute syringes, and their own personal identity papers]. In general, the police have intolerant attitudes toward drug users.<sup>12</sup>

Recognizing the funding limitations faced by these groups, the International Renaissance Foundation, together with IHRD, first launched a competition to support harm reduction-based legal services in May 2004. The project, “Protection of the Rights and Interests of Representatives of Socially Vulnerable Groups,” aimed to provide legal aid to people suffering from drug dependency, people living with HIV/AIDS, and commercial sex workers. Of 33 proposals, 10 were funded in the first year (July 2004–July 2005). This represented only a tiny fraction of the overall demand for legal services among drug users in Ukraine. In July 2005, due to the success demonstrated by the projects in the previous year, OSI supported the second round of the project. Twenty-seven applications were submitted to the competition and ten projects were funded to provide services between September 2005 and September 2006. OSI supported five projects in five different regions (Kherson, Poltava, Lviv, Nikolaev, and Kyiv) in 2007 and 2008.

During the first two years of funding, grantees provided in-person consultations to clients facing legal issues, drafted documents on their behalf, and represented them in court. Grantees also held a range of regional training seminars to educate clients about their rights under Ukrainian and international law; teach clients how to advocate for their own rights; train journalists about how to report accurately and objectively about drug dependency and HIV/AIDS; and train police officers, penitentiary system officers, health providers, and social workers about the human rights of stigmatized groups. Finally, the grantees held roundtable forums on the human rights of drug users and people living with HIV/AIDS, bringing together law enforcement officials, representatives of public health institutions, local and state government authorities, and journalists. Each of these activities was carried out with very limited resources, and all of the grantees expressed a desire to do more for their clients than resources allowed.

A common feature of each project was the production and/or distribution of booklets and other literature to inform drug users about their legal rights. Some of the publications included:

- *Administrative Arrest* (Mangust, Kherson): Describes the power that law enforcement officers have to stop people, and the rights of those being stopped. Includes contact information and working hours of a lawyer.
- *Court Protection of Patients' Rights* (HIV/AIDS Alliance, Kyiv): Describes the rights that patients have to medical care and the right to monetary damage in cases where rights are violated by medical workers. Includes excerpts from the Ukraine civil code.
- *309* (HIV/AIDS Alliance, Kyiv): Includes descriptions of violations and crimes relating to illegal drug trafficking; definitions and excerpts from the criminal

code; descriptions of what constitutes a violation of these codes, and what the punishments are; and practical recommendations for how to deal with the police during arrest.

- *If You Don't Have a Job* (Time of Life, Nikolaev): Describes labor rights in Ukraine by excerpting parts of the labor code, and provides advice on consulting the state employment service.
- *If You Don't Have a Home* (Time of Life, Nikolaev): Addresses clients who do not have anywhere to live and provides hands-on recommendations for how to find an apartment. Includes information on homeless shelters and the documentation needed to access shelter services; and lists the steps that people should take if they are illegally forced out of their homes.
- *If You Have a Passport, You Have Everything* (Exit, Nikolaev): Describes what a passport is, why it is important, and what a person needs to do to get one.

## IV. Approaches to Service Provision

*“[The lawyer] took care of me, and supported me personally. She treated me like I was a human being.”*

—Program client, Lviv

There is no one way to provide legal services in harm reduction programs. The types of services and the way that they are provided vary based on staffing, physical location, and how clients are selected. Service provision is imperfect and largely based on instinct. Legal professionals working with harm reduction programs currently work under tremendous pressure with few resources. The demand for their services far exceeds their capacity. Non-traditional settings for legal service provision, challenging populations, and the novel legal issues that these lawyers must raise force them to improvise new ways to do their work.

### Staffing

Finding qualified and dedicated attorneys to take on legal cases for a modest fee is not an easy task in Ukraine. The five programs took different approaches to meet this challenge. Light of Hope, which runs a drop-in center for drug users in Poltava, entered into a contract with a private law firm to provide legal services to its clients. The firm charged the organization a flat rate of 1,000 UAH (US\$200) a month and took cases based on need. According to interviews with staff and participants, the firm was able to meet the demand for services, even though it was operating at a loss—completing work that far exceeded the monthly payment. The law firm was clearly motivated by its commitment to the program; the founding partner had been a volunteer with the organization long before he became an attorney.

In Kherson, an attorney with her own private criminal practice works on a case-by-case basis. The legal aid project pays the attorney a monthly fixed payment for her services—about 1,000 UAH (US\$200). The fee is calculated on average payments for such services in the region, but is discounted slightly because the work is done for a charitable organization. The attorney takes cases with an amount of work that approximates that monthly fee. The program appeared to be reaching fewer clients than in Poltava, possibly because of the criteria that the program uses for selecting cases.

Time of Life, the harm reduction program in Nikolaev, utilized the services of the same lawyer as the regional office of the All Ukrainian Network of People Living with HIV/AIDS.

In Kyiv and Lviv, programs had one or more full-time lawyers on staff who provided services whenever clients from the program approached them. This appeared to be the model that worked the best with harm reduction clients, particularly those who were still using drugs, because the lawyer was present all the time and developed a relationship of trust with the program participants. Clients could also reach out for legal services whenever they felt comfortable doing so, as they knew that a lawyer was available at any time. Because drug users are often intimidated by authority figures, it may take several false starts before enough trust develops for a client to follow through with meeting a lawyer and developing a case. This is more likely to happen with a professional that a user sees more than once a week.

## Physical Location

Legal services may be provided in a variety of locations, including drop-in centers, substitution treatment facilities, or lawyers' offices. Both Poltava and Kyiv had legal services located in a place where clients could simply stop by and spend time, possibly the best approach to developing trust with program participants. A lawyer with the Kyiv program said:

People are encouraged to come to the center to rest, have tea and cookies. It is cozy there, and people feel comfortable coming. They are encouraged: 'If you want [to use drugs], you'd do better to come here instead.'<sup>13</sup>

In Lviv, the program situated its legal services in an administrative office that clients visited frequently, so the effect was similar to services offered in a drop-in center. Clients appeared comfortable approaching the program's lawyer in this setting, despite the fact that because of space constraints, there appeared to be few places for confidential communications.

The program in Nikolaev had legal services available only at the substitution therapy clinic.

In Poltava, attorneys from a private firm that provides services to clients visited the program weekly to interview clients and conduct "intake" (recording the name of the client, his or her legal issues, and contact information). In this way, clients were able to find legal services where they sought other supportive services like child care, assistance with social services, and support groups. The drawback to this model was that legal assistance was not available at all times, and for clients juggling a number of different priorities (some of which may feel more important than pursuing a legal case), it may have been difficult to get to the program at the appointed times and dates.



To reach the most marginalized clients, it is important for lawyers to attend outreach services such as mobile syringe exchange, not only fixed centers. This outreach model, when combined with an easily accessible, private office where the client and the lawyer can arrange to have subsequent confidential meetings and the lawyer has access to a phone line and other office supplies, is perhaps most in line with a harm reduction philosophy. Legal professionals can literally “meet the client where she or he is at,” regarded as a critically important element by many harm reduction supporters, while still having the resources and setting to provide high-quality legal services resembling those provided in a private law office. Of the programs reviewed for this report, only Club Eney in Kyiv employed this type of model.

## Benefits to Clients

*“[Police] react differently to an attorney. They have a different attitude than when they are addressed by a representative of an organization.”*

—Anton Petko, attorney, Poltava

The projects offered a wide range of legal services to clients; from brief consultations where simple advice was provided, to full representation before a court. More often than not, clients simply needed information about their rights and how to go about solving minor problems. By documenting the kinds of services provided and the number of times clients request each type of service, projects can better design service provision for the coming year.

## Consultations

Drug users are frequently unaware of their legal rights, or what they can do when their rights have been violated. Consultations with legal professionals offer drug users the opportunity to ask questions and determine whether there is a way to address their problems. Consultations are the most frequent service provided and offer the client an opportunity to interact with a legal professional, obtain education about their rights, assess their ability to vindicate those rights, and receive advice about how to proceed. In many cases, clients needed nothing more than information and benefited greatly from this service, at limited expense and energy to the program or the legal professional. Between 2004 and 2006, project lawyers provided nearly 4,000 consultations to people using drugs and people living with HIV.

## Drafting and Securing Documents

The project lawyers frequently drafted appeals and documents on behalf of their clients to such entities as prosecutors' offices, courts, public health and social protection institutions, and local authorities. Lawyers also assisted clients in completing many different kinds of applications and other paperwork (e.g., passport applications) that did not necessarily require the skills of a lawyer, but were nevertheless daunting to clients and which, without help, the clients would probably not complete.

## Advocacy

The concept of "advocacy" has come to Ukraine quite recently following the dissolution of the Soviet Union. It has recently been understood to mean meeting with officials, attending public hearings, and preparing reports in an effort to change policies or practices of those in a position of authority. This notion of advocacy can be understood as political advocacy rather than legal advocacy. Those working in HIV/AIDS services in Ukraine have been building their capacity to do this kind of advocacy by attending trainings abroad and bringing those skills back to their staff and colleagues.

In the context of legal services, advocacy can be understood in two ways: individual advocacy on behalf of one client; or group advocacy aimed at solving a problem common to a number of different clients. Individual legal advocacy typically encompasses any action taken on behalf of a client in order to assist the client in vindicating a legal right or obtaining a benefit to which he or she is entitled by law. "Test case" litigation—where a client challenges a long-standing policy or a law using a new legal theory or argument—falls into this category. In Kherson, the lawyer working with Mangust is helping the program's clients apply for "amnesty" under a new law that allows people living with HIV or TB to apply for a sentence reduction if they had been sentenced to prison for five years or more.<sup>14</sup>

Individual legal advocacy can also be used to promote changes in policy or practice that, in turn, benefit a larger group of people. Legal professionals and advocates in Poltava, for example, engage in constant dialogue about clients' cases, and whether group legal advocacy is possible to either accompany or replace litigation. An HIV-positive pregnant woman in Poltava experienced abuse and discrimination on the basis of her status at the hands of the delivery room staff, including her own treating physician. She was not interested in going to court, but she did want to see the doctor punished through the administrative system. Acting on her behalf, the Light of Hope program scheduled a meeting with the head of the city health department, the head of the maternity ward, and the offending provider to address the situation, and asked for a verbal reprimand and an order that this will not

happen to any other HIV-positive pregnant women. In this way, the program hoped to use one woman's case to bring about a larger change in the system.

Group legal advocacy (a concept less widely understood by legal professionals interviewed for this report), consists of collecting evidence of a series of violations that are common among clients, identifying a decisionmaker who is either responsible for the violations or who has the capacity to end the violations, and using the evidence as the basis for making recommendations to policymakers. This kind of advocacy is particularly beneficial where the demand for legal services for common problems exceeds the capability of the program to provide it, and where systemic change could solve the problem for a large number of clients. It is a very efficient way of dealing with common problems. Class action lawsuits—where a group of clients challenge the validity or impact of a law or policy—is an example of formal group legal advocacy.

There is great potential for group legal advocacy in Nikolaev, where Time of Life's attorney has identified a widespread practice in a substitution therapy center of discharging patients from the center without cause, and accepting bribes from people on the waiting list to get into the program. Instead of addressing each of these cases individually, the lawyer could approach a newly established NGO that monitors the rights of patients—the Association for Protection of Patients' Rights—with evidence of widespread wrongful discharge. The patients' rights organization could in turn launch an investigation, and after documenting the practice, seek redress from provincial regulatory bodies. In order to engage in this type of advocacy, the lawyer or another individual positioned to lodge this kind of complaint would need to be trained in how to document and present evidence and to ask for a change or regulatory action.

## **Representation in Court**

The most time-consuming service that attorneys provide is representation before courts. Representation in court has largely been limited to licensed attorneys, as opposed to lawyers, and only two programs actually worked with attorneys (Poltava and Kherson). Because attorneys in both of those programs worked on contract, they had been able to represent only a limited number of clients in court. Representation in court was confined to criminal defense work; the programs provided no examples of affirmative or civil litigation (litigation brought by an attorney on behalf of his or her client, as opposed to defensive litigation where a case is brought against a drug user). In Poltava, however, the program was exploring the possibility of bringing a lawsuit against a health care professional for a violation of medical confidentiality.

## Training in Self-advocacy

Legal professionals in several of the grantee organizations maximized the assistance they provided to clients by training some of those with less complicated cases in how to advocate for themselves. When an attorney is not available to represent a client in a criminal matter in Kherson, for example, Mangust program staff will provide information to the client and his or her family about how to represent themselves, or how to go directly to the prosecutor to explain the situation. A visit by a criminal defendant to a prosecutor can have great impact, as Ukrainian prosecutors have wide discretion in whether to proceed with cases brought by the police, according to the Mangust program director.<sup>15</sup>

The lawyer in Nikolaev held workshops to train clients about their rights during police interrogations, and a workshop for young lawyers on existing problems for drug-using clients and the impact of changes in legislation. Lawyers also held training seminars with law students. Mangust's director explained the benefits of doing this: "Even if they don't work with us, they will have a different attitude when they go to work for [law enforcement], the prosecutor's office, or the state."

## Being a Presence

Simply having a legal professional on staff seemed to provide a salient benefit to programs and their clients. In Lviv, clients said that they were certain that the fact that they had access to legal assistance influenced the way that police treated them. Subject to frequent stops, searches, and arrests, clients from the Lviv project would simply show the police a card that they had been given with the lawyer's name and number, call the lawyer, and find her waiting at the station ready to fight for their rights. According to the lawyer, "If the client has the organization behind him, it shows the investigator that if he does things wrong, he'll have problems. If no one is protecting the client, the investigators will threaten him."<sup>16</sup>

One program client said, "Our lawyer met with the [police] district department and they all know her. We have IDs, and when we are arrested, we show the card. It says we have our lawyer." The client said that the police appear to respect her more and allow her to call the lawyer right from the police station. In this way, "people are helped at the precise moment [help is] needed," she said.

A frequent complaint from program clients is that law enforcement officers often attempt to extract confessions from suspects when they are suffering from the painful effects of withdrawal from opiates.<sup>17</sup> Both clients and legal professionals alike noted that this happens less frequently when the police officer or investigator knows that the person has an attorney. It is harder, one attorney explained, for the investigator to do something wrong when he knows that his actions will be subject to scrutiny. While the organiza-

tions themselves had long monitored this problem, the presence of an attorney seemed to make a big difference. An attorney from Poltava said that police “react differently to an attorney. They have a different attitude than if they were addressed by a representative of an organization.”<sup>18</sup>

## Education

Lawyers assisted program staff in creating outreach and education materials to reach a broader audience than the program was able to reach with direct client services. A volunteer lawyer working with the organization Exit in Nikolaev helped the program produce several brochures advising clients of their legal rights. These publications include, *What to Do if You Don't Have a Home* and *If You Have a Passport, You Have Everything*. In this way, even a program that is unable to afford the services of a legal professional can provide some legal information to its clients.

## Support Services to Harm Reduction Organizations

In addition to providing direct client services, legal professionals also assisted the harm reduction organizations with various legal battles. From representing social workers who were harassed by law enforcement while they were working with the program<sup>19</sup> to assisting with employment contracts and agreements with the government or other NGOs, the demand for legal services always exceeded the capacity to provide them.

## Client Selection

Given the limited resources of each program, it was impossible for legal professionals to carry out all of the functions described above on behalf of every client who approached them for assistance. There was little evidence that programs had actually thought through how to allocate scarce legal resources to determine which clients would receive services for which problems. It was possible, however, to discern different approaches to client selection, all of which have advantages and disadvantages.

Two programs attempted to provide assistance to each client as they requested it on a first-come, first-served basis, on any issue that the client raised. In Lviv, this meant that the lawyer on staff appeared to be working constantly. She saw a steady stream of clients throughout the day in the program's administrative offices, and she provided her cell phone number to clients to reach her off-hours. The lawyer's philosophy was that she “can't turn

one client away when we've helped others." But this sole lawyer, with constant demands for her services, risked suffering from "burnout" before long.

In Poltava, because legal problems were handled by a private law firm that only did intake once a week, the demand was not as steady and heavy, and clients did not have immediate access to legal assistance when they encountered abuses. They could only secure assistance after the abuse had been perpetrated—sometimes up to a week later. The Poltava program had several experienced advocates who were able to separate clients who were in need of legal assistance and those who simply needed advocacy assistance, which non-lawyers were able to provide.

While clients at both the Lviv and Poltava programs appeared to be satisfied with the legal assistance provided by the programs, attempts to meet the needs of *all* clients, rather than selecting certain cases, did not allow for a strategic leveraging of legal services by addressing systemic problems—particularly in the context of limited resources. One function of legal services in a harm reduction context is not just the ability to meet the varied needs of all clients, but also to identify and address systemic problems facing large numbers of clients.

With a model of first-come, first-served or on-demand services, legal professionals inevitably become too consumed with individual cases to identify larger trends, particularly where few statistics are kept and little strategic planning is done. They may also be unable to develop particularly severe or illustrative cases into affirmative litigation to effect broader change. While Ukrainian law does not draw on case law to establish precedent, these cases can be useful to draw public attention to larger issues.

On the other hand, this approach allows legal professionals to develop a portfolio of cases that demonstrate the wide range of legal services needed by their clients. This portfolio can be used to inform the development of a training program or assist in the design of a new program.

All clients have a right to legal services. Only in a context of limited resources must a balance be struck between individual services and strategic litigation. Ultimately it is the duty of the Ukrainian government to ensure that all people have access to legal aid.

In both the Nikolaev and Kyiv programs, lawyers seemed to prioritize three different kinds of legal services: assistance in preparing official documents for clients, individual advocacy to assist clients in achieving a specific goal, and fighting against clear cases of abuse or discrimination (especially police abuse in Kyiv and denial of medical care in Nikolaev).

In Kherson, Mangust's contract attorney had no day-to-day contact with clients, and only received referrals from program staff. This method of referral, combined with the attorney's considerable professional skill in the area of criminal defense, seemed to result in legal services being limited to a few egregious police abuse cases where evidence

was falsified or clients were mistreated in some way. Without taking on every case, this approach both “lets the courts and the [police] know that there is someone watching,”<sup>20</sup> according to the attorney, and also allows for the development of important precedent in the area of criminal law.

# V. Analysis of Legal Problems Addressed by Service Providers

The legal issues faced by drug users are not confined to one area of the law. Drug users' problems are resolved in criminal courts, family courts, housing courts, administrative offices, and medical settings. Legal professionals who work in cooperation with harm reduction programs must become familiar with a wide array of court systems and bureaucracies, and must maintain relationships with other professionals in diverse fields. This is a challenge for legal professionals who are often trained to deal with just one area of the law. The legal professionals interviewed for this report helped clients address problems related to: abuses by law enforcement; the unlawful seizure and sale of their apartments; problems with retaining or regaining custody of their children; problems relating to their names being listed on drug treatment registries; problems obtaining or regaining identity documents; barriers to clean syringe access; denial of methadone or buprenorphine treatment; problems relating to reintegration following a period of incarceration or institutionalization; discrimination by medical providers; and violations of medical privacy.

## Abuses by Police

*"[The police] see us as a means to enrich themselves. The attitudes toward us are horrible. They degrade us, they beat us; if they find nothing, they plant something on us."*

—Program client, Lviv

Drug users face considerable oppression from law enforcement officers. For instance, police routinely attempt to extort money from people known to be drug users. One program participant from Lviv explained: "They see us as a means to enrich themselves. The attitudes toward us are horrible. They degrade us, they beat us; if they find nothing, they plant something on us."<sup>21</sup> The problem of extortion, however, is often beyond an attorney's ability to address; the money has usually been paid, the drug user released, and all that is left is a complaint. Some clients would rather pay money to secure their own release rather than apply for help from a lawyer. One client in Kherson said, "It is much easier to deal with the police. We can address the lawyer, but why? I don't want to be arrested and then wait for the lawyer. I would rather deal with it right away."<sup>22</sup>



The most common form of police abuse addressed by lawyers interviewed for this report was the manufacture of false evidence—either through planting narcotics on drug users or extracting false confessions during interrogation.<sup>23</sup> Artur,<sup>24</sup> an HIV-positive man from Lviv in recovery from a serious drug-dependence problem, was a long-time participant in a harm reduction program with a relatively lengthy prior history of drug and theft offenses. Artur was stopped and searched by the police as he was leaving a friend’s house. Officers found one cigarette with marijuana, arrested him, and took him to the district police headquarters. He was released without being charged, and told to come back to the investigator’s office the next day.

When he met with the investigator, he was told that he was being charged with possession of over 9.5 grams of marijuana, far more than he had been carrying and an offense which could have subjected him to three years’ incarceration. He said that the investigator told him, “Well, you’re in a bad situation, especially considering your past. Let’s see what we can do. What do you suggest?” When Artur had no response, the investigator suggested that Artur pay him 1,000UAH (US\$200) and bring him a number of office supplies, explaining that investigators had to procure their own supplies, even down to printer toner and paper. Artur told the investigator that he didn’t have the money, and that he would need some time to get it. The investigator gave him a day to do so.

As soon as he left the office, Artur went straight to the harm reduction center to talk to the program’s lawyer, Mariya Kaminska. Kaminska called the offices of the Security Service of Ukraine. She was told that the situation was typical, but in order to do something, they would need some proof. After consulting with Artur, Kaminska decided to equip him with two packages of printer paper and a concealed voice recorder. Artur went back to the investigator with the printer paper, and drew him into a discussion about the bribe. He was able to capture the entire conversation on tape.

The next day, Kaminska gave Artur a marked hryvnia note to give to the police as the bribe they had requested. Kaminska was able to demonstrate to the State Security office that the investigator actually asked for, and received, a bribe from a suspect. The cases against both the investigator and Artur were still pending at the time of OSI’s visit.

In describing the impact that Kaminska’s assistance had on his life, Artur emphasized the moral support she provided in addition to the legal service:

She took care of me, and supported me personally. She treated me like I was a human being. I had doubts about following through, but I kicked them out; I had no choice. I might face a situation during the trial where I may have to talk about my HIV status, but I’ve known [the lawyer] for four years, a long time. I trust her, so I agreed.

Artur added that Kaminska helped him avoid relapsing into drug use:

I did get this idea that I would start injecting again because I could get drugs without any problem—I had access to my old dealer—to relieve the stress in a way that I'm very used to. I called [Kaminska] and said I wanted to take a shot. She talked to me for a very long time and told me this would not make me any better, only worse. I didn't go [to get drugs]. This is the worst time of my life for many reasons, the police being just one of them.

While falsification is the most common complaint of clients, the legal professionals interviewed for this report were uniformly pessimistic about their ability to do more than assist clients in reducing the criminal charges against them. One lawyer described the situation as a “dismal question of our justice system.”<sup>25</sup> He said that “attorneys don't want to work on falsification cases because they are essentially ‘dead end’ cases.” The private attorney working with Poltava's program confirmed this assessment and said that while it may be possible to resolve some problems relating to falsified evidence at the pretrial investigation level, it is “impossible” to get a court to find a client not guilty of a criminal offense.

The attorney working with the program in Kherson said, paradoxically, that judges were reluctant to find defendants not guilty on the basis of falsified evidence because it would diminish public confidence in the police. “If people were found not guilty it would lead to a situation where the legitimacy of the system is called into question, and they would have to look into the actions of the police,” she said.<sup>26</sup> In fact, less than half of one percent of all criminal cases brought before judges end in a not guilty verdict.<sup>27</sup> Even judges who believe that the police have fabricated evidence will find a client partially guilty, or guilty of a lesser offense. According to the Poltava attorney, this problem is impossible to address on a case-by-case basis in individual criminal proceedings because “it is a problem derived from the law enforcement system itself.”<sup>28</sup>

## Apartment Seizure and Sale

Users convicted of drug trafficking are subject not only to imprisonment, but also to seizure of an apartment or house if they own it and if the offense took place in it.<sup>29</sup> There is little that attorneys can do to assist their clients in these cases because the forfeiture is lawful.

Attorneys are frequently called upon, however, to assist clients whose homes have been illegally seized under other circumstances. There are several different ways that drug users can lose their homes, particularly while they are incarcerated or receiving medical treatment. The first and most common way is that they are fraudulently coerced into signing documents authorizing the sale of the apartment. The second is that their signatures are

simply forged on the documents. The most common scenario is that a family member of a drug user will either forge or force the user to sign documents authorizing the sale of the apartment while the drug user is unable to protest or resist (e.g., when they are intoxicated, sick from withdrawal, in desperate need of quick money, or suffering from HIV or Hepatitis C-related illness).

It is also common for those who have fraudulently obtained an apartment to sell the unit to another buyer immediately, so as to make it more difficult for the owner to trace the sale back to the original perpetrator and hold him accountable. This situation complicates the case and makes legal advocacy particularly difficult.

Program attorneys have also been asked by clients to help them regain apartments that they were “signed out of” by their families. Following the collapse of the Soviet Union, the Ukrainian government offered citizens who had been living in rented apartments to register these apartments, and by doing so, obtain ownership of them.<sup>30</sup> When apartments were being registered, some families of drug users “signed them out” of the apartment registration—in other words, they neglected to include them on the list of people legally residing at the residence.

Irinia Shulgina, the Mangust contract attorney in Kherson, recently represented a drug-using client whose apartment had been sold while he was in prison. The client told Shulgina that his apartment was sold by his brother without his consent because his brother was tired of the fact that he was in and out of prison. Shulgina wrote a letter to the Department of Justice on the client’s behalf and checked with the notary who had authorized the sale documents. She obtained copies of those documents, which clearly showed that the apartment had been sold when the client was in custody. Shulgina estimated that her chances of winning the case were 50–50, but without an attorney, the client would never have been able to even prove that the sale had taken place while he was in prison.<sup>31</sup>

Assisting clients with regaining their homes is particularly important for harm reduction, as access to housing is critical to overall health and well-being. But because there is no mechanism currently in Ukraine for addressing this issue other than challenging the validity of documents, legal professionals expend a great deal of time and energy helping clients who have lost their apartments, often to no avail.

## Drug Treatment Registries

Ukraine, like many other former Soviet republics, maintains a registry of people who the state defines as addicted to illegal drugs.<sup>32</sup> The country has two registries maintained by two different entities: law enforcement (with data maintained by the Ministry of the

Interior) and substance abuse treatment (with data maintained by the Ministry of Health). In the past, the local drug control and addiction treatment authorities were responsible for checking these two registries against one another. Technically, the passage of a confidentiality law in 2007 protecting medical information meant the end to information sharing between health providers and police,<sup>33</sup> though drug users report such sharing is common in certain regions.

There are a number of different ways in which names of drug users are added to these government lists. Those who are arrested on suspicion of drug use, and who test positive for drugs, are registered with the Ministry of the Interior. Health ministry registries are comprised primarily of people who report for substance abuse treatment. Clients who can afford to pay fees are often offered an anonymous testing option and therefore not registered. Those unable to pay the fees, however, must be registered, since the health authorities use these lists to help allocate funding to each region. Funding is based on the number of patients seeking treatment, and drug treatment centers have a strong incentive to register every person who ever had drug-related problems regardless of whether their drug use reaches the level of drug dependence.

The consequences of being registered as a drug user in Ukraine are wide ranging. Employers can easily access registries to check for names of staff and can require a prospective employee to submit a certificate stating that he or she is not a registered drug user. Law enforcement agents reportedly compare their own registries with official treatment registries to find additional users to target for criminal investigations. Registration on a drug list has been used to deny people driver's licenses and even custody of their children, according to attorneys. Local police use registration information to monitor registered drug users and target them for stop-and-search procedures or criminal investigations. Finally, people who are registered as drug users are often stigmatized in society.

Programs report that the consequences of being registered, and the difficulty that those who have been registered face in trying to be removed from registries, discourage drug users from seeking treatment. Lawyers in several of the harm reduction programs have begun to assist clients in removing their names from drug treatment registries, but the process is onerous. In Nikolaev, lawyers report that the removal process requires certification from a doctor attesting that the individual is drug free, supported by negative blood tests; however, at least four clients last year were unsuccessful in removing their names from the registries. Legal professionals in the other organizations were not able to describe an appropriate course of action for removing a client's name from the registry. Some advocates and legal professionals suggested that people could pay bribes in order to be removed from the registries, but it was unclear whom they should approach to do so.

## Child Custody Problems

Drug users who are parents often approach legal services for assistance in regaining custody of their children. Usually, custody problems originate and remain within families themselves, and not with the state, so legal remedies are difficult to identify and enforce. Generally speaking, people do not resort to the courts to address these issues. The most common problem addressed by attorneys interviewed for this report is the removal of a child from a drug user's home by a family member who does not have legal custody—usually when the parent has been absent because he or she is at work, in the hospital, or attending a substance abuse treatment program.

Substance abuse programs do not allow patients to reside in treatment centers with their children, so parents must rely on childcare from relatives, or they have to surrender their children to the state while they are in treatment. Once patients complete treatment, attorneys are often consulted to assist these parents in what one attorney described as an “onerous process for them to regain custody of their children.” Entry into a drug treatment program automatically results in registration, which in turn is used as proof that a person is a drug user and presumed unfit to care for children. As one attorney described: “They must prove that they completed the [drug treatment] program, prove that they have been drug-free for a period of time, and it is very difficult to do. For this reason, women are often deterred from going into drug treatment.”<sup>34</sup>

As a result of hearing about these problems from numerous clients, lawyers in Kyiv developed a plan to meet directly with the medical officer who ran the drug treatment centers in the city. They held workshops with the local coordination council in Kyiv to inform council members about these problems. While there was no official response from the council, advocates were hopeful that the information they provided impacted the views and practices of individual council members, who are often civil servants.

## Denial of Medication-Assisted Therapy

Despite recent changes to the law, methadone—the cheapest and best studied medication to relieve cravings for illegal opiates—remained unavailable to thousands of drug users in Ukraine at the time of this writing. This has historically been due in part to opposition from law enforcement to the medication. Buprenorphine, another medication used to reduce injection of and craving for opiates, is available to fewer than 600 patients in Ukraine.

Because of the paucity of substance abuse treatment, the few programs that exist employ strict criteria for admission. Programs give priority to drug users who are HIV-positive, and they often have to have shown multiple attempts at abstinence-based

treatment. Some programs also use less formal—and, in fact, illegal or at least unethical—methods of selecting patients: in some places for example, a drug user who is able to pay extra can gain easy access to treatment.

In Nikolaev, Ihor Skalko, a lawyer working with an NGO located in the buprenorphine treatment clinic, faced this situation as he was asked to assist clients who were being discharged without cause from the region's only buprenorphine program, presumably to make way for more patients who would pay extra money for admission. Skalko initiated a monitoring project which consisted of asking an independent expert to hold a focus group among clients. The clients, assured of their anonymity by the expert, disclosed stories about how they had paid bribes to enter the program. Skalko sent a report compiled with the results of the investigation to the Ministry of Health in Kyiv. Officials from the ministry called the doctor to Kyiv to answer the accusations in the report. Skalko said that he has not seen, nor been told by clients, of any further impropriety.

## Barriers to Clean Syringe Access

Syringe exchange, the most successful method of preventing HIV transmission through the sharing of blood-contaminated syringes, is legal in Ukraine but not consistently supported by all levels and areas of the government. As a result, drug users face considerable obstacles to accessing syringe exchange programs. Lawyers can be of great assistance to harm reduction programs and clients in ensuring access to sterile syringes for HIV prevention.

While there is support for syringe exchange at the highest levels of law enforcement, people who work in syringe exchange programs in some cities face considerable opposition from local police officers. In Kyiv, program lawyers explained that syringe exchange workers from their program carry “safety boxes” containing 200–300 syringes. Police routinely confront these workers when they are carrying the boxes, and if workers have all of the documents explaining the legality of the safety box,<sup>35</sup> they are allowed to proceed and are not charged with a crime. If the documents are not all in order, however, or if the officers do not recognize the documents, then the workers may be charged with drug possession based on the residue contained in the used syringes. In addition to providing criminal defense services to individual workers who are charged in this way, lawyers and attorneys have also engaged in education and training of “road patrol” police about the legality and public health importance of syringe exchange.

Social workers with a syringe exchange program in Nikolaev experienced intense surveillance and harassment from local police, who believed that the social workers were engaging in illegal activity. The program was able to obtain the services of a lawyer, who

helped the program director draft a letter to the Department of Internal Affairs, explaining that the social workers' actions were consistent with Ukrainian law. As a result, there has been a marked reduction in the number of encounters that social workers have with law enforcement around this issue.

While confiscation of syringes and resulting charges for drug possession is a serious risk for syringe exchange workers, the risk is even greater for clients of these programs. Legal professionals are often approached for assistance in criminal defense in these cases, and have been able in most cases to fight to reduce the charges and help their clients avoid jail time by providing direct representation in criminal court and advocacy with prosecutions.

## Identity Documents

According to lawyers interviewed for this report, the second most common request for legal support from harm reduction clients (after police abuse) is assistance with obtaining documents such as identification cards and passports. Navigating bureaucracies to obtain and regain documentation can be burdensome for any citizen, but drug-using clients face not only the frequent loss of documents, but also more difficulty than the average citizen in regaining them. Identity documents may be lost by drug users during episodes of disorganization in their lives, but they are also confiscated by police and not returned.

Documentation is critical to life in Ukraine. Identity documents are mandatory for receiving medical care, traveling, and finding employment. Identity documents are also required for entry into substance abuse treatment. The importance of documentation can best be understood from the title of one of the brochures developed by a harm reduction program: *If You Have a Passport, You Have Everything*. The converse—that without a passport, you often feel like you have nothing—is also true.

Retrieving certain identity documents like passports is burdensome for citizens in general. For some of the clients of harm reduction programs, who often face prejudice in mainstream society, interaction with bureaucrats and excessive paperwork make the task impossible to navigate without assistance. Lawyers with Club Eney in Kyiv assist clients in reapplying for passports that were either stolen or lost. One lawyer explained that without her help, “clients can’t communicate with people in public services and fill out loads of papers” on their own.

## Reintegration

Lawyers in harm reduction programs are often asked to assist clients with securing employment, housing, pensions, and other services following a period of incarceration or rehabilitation. While assisting clients with these services is usually the role of a social worker in harm reduction programs, the systems for gaining access to benefits are so complicated, layered with bureaucracy, and rife with discrimination, according to those interviewed for this report, that the task is often better suited to a professional with legal training.

Legal professionals in at least two harm reduction programs in Ukraine have developed training seminars and resources for clients seeking employment after a period of incarceration or prolonged absence due to addiction and substance abuse treatment. These publications advise clients about how to present themselves in job interviews, what information employers are legally permitted to ask for during the interview process and what questions they cannot ask, and employees' rights to not be discriminated against on the basis of disability, HIV status, or criminal record.

Kaminska, the lawyer who works with the Lviv program, assisted a client in gaining access to a benefit that the state customarily pays to indigent women who give birth.<sup>36</sup> In this case, the compensation was denied to the client because she was in prison at the time. Kaminska advocated on her behalf by appealing to and meeting with the special state social service, and the woman received the compensation to which she was entitled.

## Discrimination and Violations of Medical Privacy

Perhaps the most developed legal remedies and advocacy techniques available to legal professionals dealing with drug-using clients are those related to discrimination against people living with HIV or AIDS. In taking these cases, lawyers have been able to draw on the experiences of legal professionals who have provided legal services to people living with HIV for years in Ukraine.

As a result, legal professionals are able to assist their clients in battling discrimination from employers on the basis of their drug use or criminal records; refusal of health care professionals to provide medical treatment to people who use drugs and/or are HIV-positive; and violations of confidentiality in which medical professionals disclose the HIV status of patients under their care.

In Poltava, medical privacy cases were a priority for the legal project. Legal professionals and social workers addressed a case in which a nurse in a small village disclosed a man's HIV status. As a result of this disclosure, the man lost his job, and his son faced stigma and ridicule in school and in the community. The director of the legal project



explained that his organization had conducted training for medical staff on the confidentiality rights of patients, and that medical staff should be well aware of their obligations. He felt, however, that litigation might be necessary to put medical professionals on notice that there are consequences for violating a patient's confidentiality.

# VI. Opportunities for Strategic Litigation and Advocacy

In meetings with legal services staff and advocates, several issues emerged as ripe for regional or national systemic advocacy campaigns, including strategic litigation. Three of these issues are highlighted below, chosen based on the following criteria:

1. The severity and widespread nature of the problem
2. The availability of an easily identifiable advocacy target
3. The opportunity for collaboration between legal professionals and advocates in different regions in Ukraine

Developing a serious strategic litigation plan requires the participation of experienced attorneys—a limitation in Ukraine’s legal services landscape that is described further in the next section. Investing in professional development for existing harm reduction lawyers may be a necessary prerequisite to launching any strategic litigation on a national scale.

## Drug Treatment Registries

Because the consequences of being on a drug registry are so severe, and in light of the uniformity of the drug registries in Ukraine, this issue is ripe for national advocacy. In Lithuania, a coalition of drug-user advocates and public health experts recently convened a session highlighting the defects of the drug user registration system, and called for implementation of an anonymous system able to track addiction treatment without stigmatizing those who receive it. The proposal is now being considered by health authorities, who have been moved by evidence that the registry is creating unintended negative consequences.<sup>37</sup>

Existing medical privacy laws provide a strong base for advocacy and strategic litigation to stop government officials from sharing confidential medical information about drug dependency with other authorities and third parties. Legal professionals should explore the viability of making claims under the existing law, and determine whether such laws need to be strengthened to ensure greater confidentiality protections. They should also consider proposing legislation that would limit access to registries to those sectors of the government responsible for allocating funds or running substance abuse treatment programs, including methadone and buprenorphine programs.

Perhaps most importantly, legal professionals should work to clarify the processes available to individuals who have a legitimate desire to have their names removed from the registry. The national government, which allocates funding to regions for substance abuse treatment based on the number of people on the registries, would appear to have a strong fiscal incentive to maintain an accurate and up-to-date registry, and to work with legal professionals to streamline the process for registry removal by making clear what documentation is needed, and what patients need to do to obtain that documentation.

## **Unlawful Seizure of Apartments**

Drug users are not alone in Ukraine in facing the fraudulent and unlawful seizure of their property. Psychiatric patients, patients in palliative care and long-term hospital stays, people in prison or jail, and orphans who inherit property from their parents are all vulnerable to this type of unscrupulous activity. There is thus strong potential to form a coalition of advocates who work with each of these populations in order to explore an effective legal solution to the problem. While an immediate solution is to ensure that all those whose property is seized have access to legal services, it is clear that lawyers are often powerless to help; thus, some larger solution may need to be instituted, such as a “double-secure” system for verifying authorization signatures on apartment transfers, and a process for remedial measures for people whose property has been fraudulently sold without their knowledge. Other solutions may include increased penalties for fraudulent property seizure, and appropriate restrictions on relatives assuming guardianship or power of attorney over those with mental or physical disabilities.

## **Extortion and Manufacture of Evidence**

Both extortion of money and manufacture of evidence through coercive confessions and planting of drugs are widespread and largely unpunished in Ukraine. Extortion of money, in fact, has become a standard means by which police officers supplement their small salaries as provided by the government. The problem is so entrenched that many drug users are resigned to paying bribes to police to escape arrest, and some judges have failed to exclude illegally obtained evidence from trial on the absurd grounds that doing so would harm the reputation of law enforcement. Individual lawyers and advocates have resorted to setting up their own “sting” operations to catch police officers in the act and report their activities to internal affairs investigators, with limited results. Human rights documentation and meetings with high level internal affairs personnel

have helped to some extent in some regions, but such efforts have not tangibly reduced the problem.

There have been few systematic attempts to address this problem on a national level or to draw attention to the problem in a larger international forum. For example, no organization or individual has ever filed a complaint on behalf of drug users in Ukraine in the European Court of Human Rights on any of these issues. One tool that legal professionals could explore in this area is commencing a collection of legally affirmed or sworn statements from clients who have faced extortion, coerced confessions, or planting of evidence at the hands of the local police. The Affidavit Project designed by attorneys at the Pivot Legal Society in Vancouver, Canada, collected sworn statements of police abuse from sex workers and drug users over a lengthy period and used the testimony to push for an independent inquiry into police brutality.<sup>38</sup> The project was very successful in drawing national and international attention to the common abuses against vulnerable groups.

The use of an affidavit to affirm that an abuse has taken place is a tool that does not yet exist in Ukraine. There are professionals who legally affirm that someone has made a statement but there is little familiarity with a process for notarizing an unofficial statement. No official form resembling an affidavit currently exists. In addition, notaries traditionally work on business and government matters, and would likely not be motivated to assist drug users in this way.

Legal professionals who work in harm reduction settings could, in collaboration with law enforcement, design an official form that citizens could use to report police abuse, and a mechanism by which they can have the forms notarized. After collecting a number of forms, legal professionals could use them to demonstrate the widespread nature of the extortion problem in meetings with internal affairs. They could even use a collection of such affidavits to approach international human rights bodies.

## VII. Challenges and Limitations

*“Drug users are always edging against the law. If a drug user tries to vindicate his rights, the next day he could have drugs on him and be prosecuted legally, because drug users are always violating the law.”*

—Program client, Lviv

While lack of funding is a perennial challenge for anyone developing an innovative solution to an endemic social problem, funding constraints have not stopped many harm reduction programs in Ukraine from allowing legal services to evolve organically out of the health and social services they already provide. However, funding shortages have inhibited the ability of programs to engage in strategic planning, which is critical to program success and sustainability. Lack of funding also limits the ability of legal professionals to do some creative lawyering: in one case in which a lawyer was trying to prove that a client was facing extortion from a police investigator, she had to spend her own money on cell phone calls, taxis, a tape recorder, and marked money to give to the investigator to prove that he took a bribe—none of which was covered by the program’s budget.

Providing legal services in a harm reduction context is such a new concept in Ukraine, as well as globally, that legal professionals practicing in this area often have to come up with innovative strategies. In order to maximize their effectiveness, it is necessary for these pioneering lawyers to share their experiences, successes, and techniques. Legal professionals from harm reduction legal service projects meet at technical assistance sessions and conferences, but there has been limited sharing of methods and experiences between lawyers and attorneys working in the field.

Several legal professionals interviewed for this report said that there is competition among attorneys for business and the sharing of techniques with other attorneys may pose a threat to hard-won skills. “To share my experience, people should pay for that,” said one attorney in Kherson. “If not, I will not share. This experience is gained through work and tears. [An] attorney is always alone in a struggle against the system.”<sup>39</sup> Even the well-established network of legal professionals who work with the All Ukrainian Network for People Living with HIV/AIDS do not train other lawyers, although they do provide trainings for social workers and people living with HIV/AIDS on how to recognize rights violations.

There is progress in this area, however. In late 2007, legal professionals and advocates came together in Kyiv for a two-day meeting to share experiences and identify ways to improve the services they provide. Those who participated were eager to share their experiences with other harm reduction lawyers, and due to the success of the meeting, future

gatherings and national conferences are planned to introduce models of service provision, share information, discuss plans to expand into 10 regions, and devise a strategy to develop a single system of monitoring legal problems.

Legal professionals working in harm reduction settings face a number of other identifiable limitations to the work that they can do. Some can be addressed with additional donor support; while others are more entrenched and require massive and sustained reform within Ukraine itself.

One obstacle that may be the easiest to overcome is the need to train lawyers in a number of areas of law that affect drug users. Key areas include medical law and privacy protections, criminal procedure, antidiscrimination law, and police abuse. A series of trainings and conferences bringing lawyers together to share their experiences and learn from other professionals established in their respective fields would go a long way toward helping lawyers provide more effective services to drug users. Publication of practitioners' guides to various areas of law (such as the *Practitioners' Guide on Human Rights in Patient Care* forthcoming from International Renaissance Foundation and the OSI Law and Health Initiative) would also be of great assistance.

A lack of understanding of how the system of legal precedence works and how to apply precedent is another obstacle facing legal professionals in Ukraine. In 2006, a law was passed in Ukraine stating that domestic courts should take into consideration decisions made by the European Court of Human Rights.<sup>40</sup> This legislation represented an attempt to introduce the idea of legal precedent into a civil law system that had never relied on precedent. There is thus an insufficient understanding among lawyers and attorneys about how this decision works, and how to advocate for its wide application. There is also a tremendous need for the creation of a searchable database of all court decisions so that legal professionals can actually cite precedent as appropriate.

Finally, the system of payments to judges to reduce sentences limits the ability of all legal professionals to help clients vindicate their rights. As one lawyer who recently began her legal career explained it, her problem is not with inexperience or not knowing the laws or how to behave in court, it is the corruption, especially in criminal courts. "I feel insecure because legal protections are not enough; and I can't participate in the bribery system."<sup>41</sup>

Both clients and legal professionals express a feeling of futility at times with regard to vindicating rights violations. A common complaint expressed by legal professionals interviewed for this report was that drug users did not want to pursue their cases and failed to follow through. In criminal cases, many drug users felt it was easier to pay police than to seek legal action. Others feared retaliation. When a lawyer in Kherson said that some people who sought legal assistance from the program had been found not guilty, one client responded: "They will pay [with] their health for that. I can show you the police and they will break my legs."<sup>42</sup> A participant from the program in Lviv explained that:

Drug users are always edging against the law. If a drug user tries to vindicate his rights, the next day he could have drugs on him and be prosecuted legally, because drug users are always violating the law. We face this problem every single day of our lives. It is possible to defend them only when they know no revenge will be taken.<sup>43</sup>

However, with the support of legal professionals and social workers, drug users are making brave decisions to come forward with legal problems and seek redress. In turn, legal professionals and social workers are developing greater capacity for addressing the legal needs of their clients, and exploring ways to develop better mechanisms to ensure accountability of those accused of violating their clients' rights.

## VIII. Conclusion

For harm reduction and HIV treatment programs in Ukraine, the link between legal protection and health promotion is intuitively clear. When clients have access to services to help them resolve some of their intractable problems, they are able to begin to focus on their health. In those programs that have been able to secure funding for legal services, staff have seen how the provision of legal services results in improved health outcomes. Examples abound: the client in Poltava who, when he found out he was HIV positive, decided to “burn through” his remaining time and not address his health problems until he received legal assistance; the client in Kherson who decided to stop using drugs after the attorney provided by the harm reduction program was able to secure a reduction in her sentence.

In a country where legal services for the general population are scarce, the provision of free legal services in harm reduction settings can also increase participation in health-related programming. Drug users and sex workers who had previously been difficult to reach are drawn to programs that have a legal component, but they also benefit from the HIV prevention and treatment services as a result of their work with lawyers.

Yet legal services can do more than provide a gateway to harm reduction; they can help vulnerable people transform their lives. A lawyer in Kyiv said that she had seen clients begin to “realize that they have the possibility or the power to change themselves. They get a passport, now they can get a job. They get this, now they can do that.”<sup>44</sup>

There are also larger benefits for society to ensuring that drug users have access to legal services.

One woman who sought legal assistance after she had suffered a beating at the hands of police officers said that the help she received was “an incentive to rethink my life. I used to think it was normal to steal, to do drugs, to not be honest. I stopped taking drugs, I improved my relationship with my parents, I went to the university, and I started working. If I had not received this help, I don’t know where I would be.”

There is not yet a perfect model for successfully integrating legal services into existing harm reduction and HIV prevention and treatment programs. Much can be learned, however, from the pilot programs that have designed their own ways of providing services to clients.

In Ukraine, harm reduction-based legal services have succeeded in establishing trust with clients, identifying the most important legal issues their clients face, and designing a diverse range of service provision approaches. There is now tremendous potential to take the next step toward addressing problems on a regional and national basis through legislative and policy advocacy. This will require a number of changes in the way that legal professionals traditionally operate and the degree to which programs have built and



supported connections between legal professionals, social workers, and advocacy staff. But support from existing donors, and new support from donors focusing on legal aid reform, health care and HIV prevention, will make it possible for harm reduction and legal service providers to take their brave experiment of integrated services to the next level.

# Notes

1. World Health Organization, Regional Office for Europe, *Ukraine: HIV/AIDS Country Profile* (December 2007).
2. For a review of literature on this subject, see, S. Burris, K.M. Blankenship, S. Sherman, J.S. Vernick, P. Case, Z. Lazzarini, and S. Koester, "Addressing the Risk Environment for Injection Drug Users: The Mysterious Case of the Missing Cop," *The Milbank Quarterly*, vol. 82, no. 1 (2004): 125–156.
3. Interview with Ihor Konovalov, Director of Nikolaev Network: "A violation of rights . . . consumes a person's strength, which has a negative impact on his health." September 23, 2007.
4. Andrey Tolopilo, *Narrative Report on Human Rights of Drug Users and HIV-positive Persons in Ukraine*, 2004 (based on the results of an advocacy project by the Ukrainian Harm Reduction Association).
5. See, e.g., Human Rights Watch, *Rhetoric and Risk: Human Rights Abuses Impeding Ukraine's Fight Against AIDS*, vol. 18, no. 2 (D) (March 2006).
6. Those who have graduated from a legal training institution are considered "lawyers" in Ukraine; lawyers must go through additional training and certification after they complete their studies in order to be considered "attorneys." This report uses the term "legal professionals" to refer to lawyers and attorneys together, but makes the distinction between the two categories of legal professionals where appropriate.
7. Open Society Institute and Equitas, *Health and Human Rights—A Resource Guide for the Open Society Institute and Soros Foundations Network* (2007).
8. Andrey Tolopilo, *Narrative report on Human Rights of Drug Users and HIV-positive Persons in Ukraine*.
9. State Statistics Committee of Ukraine, [www.ukrstat.gov.ua/operativ/operativ2007/so\\_ek\\_r\\_u/soekru\\_u/12\\_2007/page\\_14.htm](http://www.ukrstat.gov.ua/operativ/operativ2007/so_ek_r_u/soekru_u/12_2007/page_14.htm).
10. Interview with Mariya Kaminska, Lviv, September 21, 2007.
11. Interview with Anton Petko, Poltava, September 27, 2007.
12. Interview with Marina Ermolchenko, staff lawyer, Club Eney, September 20, 2007.
13. Interview with Marina Ermolchenko, staff lawyer, Club Eney, September 20, 2007.
14. Law no. 955-V, "On Amnesty," April 19, 2007. The sentence reduction is not automatic; a person so convicted has to fill out an application and write a letter, but in order to do so, the person has to admit guilt. Some clients have been reluctant to do so for this reason, but also because they must remain offense-free for the remainder of their sentence or face stiffer penalties.
15. Interview with Nadegda Kravchenko, Mangust, Kherson, September 25, 2007.
16. Interview with Mariya Kaminska, Lviv, September 21, 2007.
17. The effects of opiate withdrawal can range from mild flu-like symptoms to severe nausea and diarrhea. See, World Health Organization, *Neuroscience of Psychoactive Substance Use and Dependence* (2004).
18. Interview with Anton Petko, Poltava, September 27, 2007.
19. In a number of regions, social workers who transported syringes and distributed them to drug users were arrested by law enforcement officers who believed such actions to be illegal. This was rather typical when syringe exchange first became legal in Ukraine. Lawyers and attorneys of the legal aid projects sought the release of these social workers and provided law enforcement with information about the legitimacy and legality of syringe exchange.
20. Interview with Irina Shulgina, Kherson, September 27, 2007.
21. Interview with male participant, Lviv, September 21, 2007.
22. Interview with male participant, Mangust, Kherson, September 25, 2007.
23. The phenomenon of law enforcement extracting confessions from drug users suffering from unmedicated withdrawal is documented by Human Rights Watch. See note 5.
24. The client's name has been changed to protect his privacy.
25. Interview with Ihor Skalko, Nikolaev, September 24, 2007.

26. Interview with Irina Shulgina, Kherson, September 25, 2007.
27. Denis Kobzin et al., International Renaissance Foundation, *Monitoring of the System of Free Legal Aid in the Kharkiv Region* 67 (2007), and G.I. Aleynikov, Kherson Region Fund for Charity and Health, *Verdict of Not Guilty in the Criminal Process in Ukraine* (2007).
28. Interview with Anton Petko, attorney, Poltava, September 27, 2007.
29. Criminal Code of Ukraine, Article 317, April 5, 2001. The law states that “Organization or maintenance of the sites to illegally use, produce or manufacture narcotic substances, psychotropic substances or their equivalents, as well as providing accommodations for this purpose . . . committed repeatedly or from mercenary motives, or by a group of people, or involving minors, are punished by incarceration for a term from five to twelve years and property seizure.”
30. Law no. 2482-XII, “On Privatization of State Housing Fund,” June 19, 1991.
31. This case was still pending at publication of this report.
32. According to Paragraph 1.3 of Article 12 of the 1995 law, diagnoses of “drug dependency,” “toxic dependency,” or “narcotic intoxication” are grounds for registration of a person for medical supervision. Formally, the registration system was put in place to monitor drug use morbidity, so that the state could respond to public health threats caused by changes in drug use patterns. However, the Ukrainian drug treatment system currently relies on the drug registration system to receive state financing; funding for substance abuse treatment in each region depends on the number of registered persons in that region.
33. In 2007, the Basics of the Ukrainian Health Care Legislation law no. 2801-XII, November 19, 1992, was supplemented by Article 39-1, “The Right to Secrecy on Health Status,” which states that a patient has a right to secrecy regarding his or her health status and related information received during a medical examination. The law prohibits medical officers from providing information about a patient’s medical condition to his or her place of employment or educational institution.
34. Interview with Anton Petko, Poltava, September 27, 2007.
35. A service NGO provides social workers with a certificate stating that used syringes are being collected for the purpose of preventing the spread of infectious diseases. The social worker may present this document, along with identification demonstrating that the social worker is, in fact, a social worker, to law enforcement if he or she is stopped and questioned about possession and transport of syringes.
36. Article 12, of the law “On State Aid Provided to Families with Children,” entitles first-time mothers to 12,240 UAH (US\$2,424), and decreasing amounts for each subsequent child. The preamble of the law states that: “This monetary benefit aims to support families with children within the framework of the national system of social protection of the population.”
37. Personal communication, “I Can Live” coalition, Vilnius, Lithuania (December 2007). On file at IHRD office, Open Society Institute.
38. Pivot Legal Society, *To Serve and Protect: A Report on Policing in Vancouver’s Downtown Eastside* 4 (undated), available at [www.pivotlegal.org/pdfs/toserveandprotect.pdf](http://www.pivotlegal.org/pdfs/toserveandprotect.pdf) (last visited March 6, 2008). Pivot’s Affidavit Project was modeled on Gandhi’s 1971 “Bihar Campaign” during which he and other volunteer lawyers took sworn statements from rural farmers who suffered abuse at the hands of authorities but had no avenue for recourse. When confronted with thousands of sworn statements, the British government ended the system that resulted in the farmers’ abuse. Pivot explained that it used the Bihar campaign as a model because of the similarities between the rural farmers in India and drug users on the Eastside of Vancouver: they lacked the financial means and social status to access traditional legal services, and they had complaints about misconduct by people in positions of power and authority.
39. Interview with Irina Shulgina, Kherson, September 25, 2007.
40. Law, no. 3477-IV, Article 17, “On Executing the Decisions and Applying the Practice of the European Court of Human Rights,” February 23, 2006.
41. Interview with Mariya Kaminska, Lviv, September 21, 2007.
42. Male program participant, Kherson, September 25, 2007.
43. Female program participant, Lviv, September 21, 2007.
44. Interview with Julia Dorokhova, September 20, 2007.

# About the Authors

**Corinne Carey** began her legal career with a fellowship from the Open Society Institute as the founder and director of the Harm Reduction Law Project, based in the Lower East Side Harm Reduction Center in New York City. She provided direct legal services to drug users in harm reduction programs throughout the city. A longtime drug law reform and harm reduction advocate, Carey was a founding member of Prevention Point Philadelphia, that city's first needle exchange program. Currently public policy counsel to the New York Civil Liberties Union, Carey previously worked as researcher with the U.S. Program at Human Rights Watch, where she produced reports and engaged in advocacy on domestic human rights issues including the rights of people with criminal records, sex offender registration, and community notification laws. She serves on the Board of Directors of National Advocates for Pregnant Women, and has spoken about the rights of drug users to local, national, and international audiences. She has also taught courses in law and urban problems and civil rights and civil liberties at New York University and Brooklyn College.

**Andrey Tolopilo** is a Ukrainian expert specializing in the human rights of socially vulnerable populations. Tolopilo has worked as a part of international expert and governmental working groups. He has provided legal advice to projects implemented by nongovernmental organizations in Armenia, Belarus, Georgia, Kyrgyzstan, Russia, Tajikistan, and Ukraine regarding the obligations of the state to respect the human rights of vulnerable populations. Tolopilo is the author of a legal guide *Drug Addiction and Human Rights*, and the guidebook *Social and Legal Support to Drug Users and HIV-Positive Persons*. He is also the co-author of the guidebook for law enforcement, *Drug-Related Crime and Drug Dependency*, a monograph entitled *Narcotization of Ukrainian Population: Perception of the Problem and Approaches to Solution*, a *Know Your Rights* guide for people who are drug-dependent or who are living with HIV or AIDS, and a number of other books.

# Open Society Institute

The Open Society Institute (OSI), a private operating and grantmaking foundation, aims to shape public policy to promote democratic governance, human rights, and economic, legal, and social reform. On a local level, OSI implements a range of initiatives to support the rule of law, education, public health, and independent media. At the same time, OSI works to build alliances across borders and continents on issues such as combating corruption and rights abuses.

OSI was created in 1993 by investor and philanthropist George Soros to support his foundations in Central and Eastern Europe and the former Soviet Union. Those foundations were established, starting in 1984, to help countries make the transition from communism. OSI has expanded the activities of the Soros foundations network to other areas of the world where the transition to democracy is of particular concern. The Soros foundations network encompasses more than 60 countries, including the United States.

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## Public Health Program

The Open Society Institute's Public Health Program aims to promote health policies based on social inclusion, human rights, justice, and scientific evidence. The program works with civil society organizations to promote the participation and interests of socially marginalized groups in public health policy and foster greater government accountability and transparency through civil society monitoring and advocacy, with a particular emphasis on HIV and AIDS. Program areas focus on addressing the human rights and health needs of marginalized persons and advocating for a strong civil society role in public health policy and practice.

The Public Health Program's **Law and Health Initiative (LAHI)** promotes legal action to advance public health goals worldwide. By bringing together legal, public health, and human rights organizations, LAHI seeks to build a broad movement for law-based approaches to health and for the human rights of society's most marginalized groups. The **International Harm Reduction Development Program (IHRD)** works to reduce HIV and other harms related to injecting drug use, and to press for policies that reduce stigmatization of illicit drug users and protect their human rights. IHRD, which has supported more than 200 programs in Central and Eastern Europe, the former Soviet Union, and Asia, bases its activities on the philosophy that people unable or unwilling to abstain from drug use can make positive changes to protect their health and that of their families and communities.

[www.soros.org/health](http://www.soros.org/health)





While Ukraine has made progress in preventing and treating HIV among injecting drug users, greater funding and political commitment for legal services is needed to stem the spread of HIV. Vulnerable groups such as people who use drugs, sex workers, and people living with HIV/AIDS continue to face human rights abuses that limit their access to harm reduction services. Unless these services are coupled more closely with legal support to address discrimination, police violence, and other human rights violations, vulnerable groups will not achieve the maximum benefits from harm reduction in Ukraine.

The various efforts in Ukraine described in this report demonstrate that there is no single perfect model for integrating legal services into harm reduction and HIV prevention and treatment programs. Much can be learned, however, from examining how these programs are providing harm reduction and legal services that help vulnerable groups defend themselves, better protect their health, and improve their overall quality of life. There is tremendous potential in Ukraine to take the next step toward addressing problems on a regional and national basis through legislative and policy advocacy.

